REMARKS

Claims 2, 4, 7-16 and 18 are pending in the present application.

Claims 1, 3, 5, 6 and 17 are cancelled.

Claim 18 is a newly entered claim. Support for claim 18 is provided in previous claims 1, 6 and 17 and paragraphs 18-20 and 49 of the specification.

Claims 2, 4, 7, 8 and 9-13 have been amended depend from claim 18.

There is no new matter entered as a result of the amendments.

Reconsideration based on the following comments is respectfully requested.

Claim Rejections - 35 USC § 112

Claims 1 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1 and 17 are cancelled thereby rendering the rejection moot.

Claim Rejections - 35 USC § 103

Claims 1-2, 3, 6-7 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Y-C. Shi (USP 6,890,571). Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Y-C. Shi (USP 6,890,571) in view of Y-C. Shi (USP 5,593,503).

Claims 1 and 17 are cancelled and claim 18 entered as the sole independent claim.

Claim 18 specifically recites 3-60 wt% short chain amylose as previously recited in claim 1. The Office considers Examples WS 57 1-4 of the instant application to be similar to 1A-1D, 2A and 2B of Shi '571 and, based on this comparison, contends that Shi '571 must necessarily contain about 20 weight % small chain amylose (SCA). Applicants respectfully redirect the attention of the Office to WS 57 1-4 of the instant application. The second column of Table 1 specifically recites an SCA% of 0. If the Office is correct regarding the similarity, which Applicant does not concede, than the only logical conclusion is that the prior art represented by Shi '571 contains no SCA.

The Office has incorrectly assumed an SCA level of about 20% based on data which, based on the analysis of the Office,

would suggest 0%. This is in spite of clear teachings of Shi '571 which states, specifically at col. 3 lines 44-47, that the degree of debranching is at least about 90%.

The position of the Office would be difficult for one of skill in the art to arrive at. The reference specifically recites 90 % SCA yet the Office considers the data to be consistent with 0 % SCA. Based on this incongruent reasoning the Office then concludes that the foodstuff achieved by the process is the same as the starch of the prior art in spite of the fact that every indication of the prior art data disagrees with the properties achieved by the claimed invention. Specifically, the properties of the starch are not consistent with a food stuff having a starch component with 3-60% SCA.

As noted by the Office, a product by process claim is unpatentable if the claimed product is the same as a product of the prior art. Applicants agree. In the instant claims the product has a specifically recited composition including, among other things, a 3-60 wt% SCA with a polymerization level of < 300 in the starch component. The prior art teaches at least 90 wt% SCA. As detailed by the Office the prior art has properties which are consistent with a product, made by a different

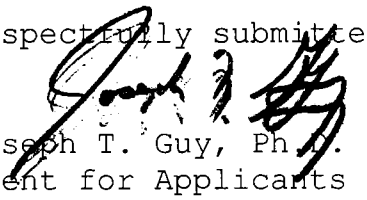
process, which contains 0 wt% SCA. Therefore, the process is not taught in the prior art nor is the composition, or a composition with similar properties, taught in the prior art. Based on the foregoing claim 18, and claims which depend therefrom, are patentable over the prior art of record.

Claims 1 and 17 have been cancelled in favor of newly entered claim 18. Claims 2, 4 and 7-16 all ultimately depend from claim 18. The rejection of claims 1-2, 3, 6-7 and 11-17 under 35 U.S.C. 103(a) over Y-C. Shi (USP 6,890,571) and the rejection of claims 8-10 under 35 U.S.C. 103(a) over Y-C. Shi (USP 6,890,571) in view of Y-C. Shi (USP 5,593,503) is rendered moot by amendment.

CONCLUSIONS

Claims 2, 4, 7-16 and 18 are pending in the present application. All claims are now believed to be in condition for allowance. Notice thereof is respectfully requested.

Respectfully submitted,



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